

1 Carla M. Wirtschafter (SBN 292142)
Email: cwirtschafter@reedsmith.com
2 Allison L. Kahn (SBN 346206)
Email: akahn@reedsmith.com
3 REED SMITH LLP
1901 Avenue of the Stars, Suite 700
4 Los Angeles, CA 90067-6078
Telephone: (310) 734-5200
5 Facsimile: (310) 734-5299

6 *Attorneys for Defendant*
SHAWN COREY CARTER

7
8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**

10
11 RYMIR SATTERTHWAITE,
12 Plaintiff,
13 vs.
14 SHAWN COREY CARTER,
15 Defendant.

Case No.: 2:25-cv-04251- SPG (MARx)

*[Assigned to Hon. Sherilyn Peace Garnett,
Courtroom 5C]*

**DEFENDANT'S NOTICE OF MOTION
AND MOTION TO DISMISS
PURSUANT TO RULE 12(B)(5),
12(B)(1) AND 12(B)(6) AND SPECIAL
MOTION TO STRIKE PURSUANT TO
CCP §425.16; MEMORANDUM OF
POINTS AND AUTHORITIES IN
SUPPORT THEREOF**

*[Filed Concurrently With Declaration Of
Carla M. Wirtschafter; Request for Judicial
Notice; [Proposed] Order]*

Hearing Date: September 3, 2025

Time: 1:30 p.m.

Location: Courtroom 5C

Action Filed: May 6, 2025

1 **TO THE CLERK OF THE ABOVE-ENTITLED COURT AND TO**
2 **PLAINTIFF, APPEARING *PRO SE*:**

3 **PLEASE TAKE NOTICE** that on September 3, 2025 at 1:30 p.m. in the
4 above-entitled Court, located at 350 West 1st Street, Los Angeles, CA 90012 in
5 Courtroom 5C, Defendant Shawn Corey Carter (“Defendant”) will and hereby does
6 move, for an order dismissing the Complaint with prejudice pursuant to Federal Rules
7 of Civil Procedure Rules 12(b)(5), 12(b)(1) and 12(b)(6) and striking the Complaint
8 and all causes of action therein pursuant to California Code of Civil Procedure
9 §425.16. Defendant is an internationally-known musical artist and businessman whose
10 hard-earned success, brand, and brand of products is recognized worldwide. This
11 lawsuit and the related lawsuit filed by Lillie Coley at Case No. 2:25-cv-04216-SPG-
12 (MARx), are just the latest events in Lillie Coley and Plaintiff Rymir Satterthwaite’s
13 (“Plaintiff”) longstanding harassment of Defendant and disregard of multiple court
14 orders.

15 The fabricated allegations and claims made in the Complaint have been
16 addressed—and rejected—in multiple other courts time and time again. Plaintiff’s
17 attempt to relitigate the same issues again in a different court (in a third state) goes
18 beyond the typical forum shopping. This lawsuit was filed in a transparent attempt to
19 circumvent Superior Court of New Jersey Judge Deborah Silverman Katz’s January
20 13, 2022 order which described Plaintiff’s court filings as “frivolous and vexatious”
21 and ordered that he, Ms. Coley, and his mother Wanda Satterthwaite:

22 “are enjoined from filing any action in a New Jersey State Court absent a
23 review and determination by this Court that the action is pled in a manner
24 that seeks proper legal relief.”¹

25
26
27 ¹ See Request for Judicial Notice (“RJN”) filed concurrently herewith, Ex. G (January
28 13, 2022 Order), p. 1.

1 The Complaint is another frivolous and vexatious court filing that should be dismissed
2 with prejudice on any one of the following grounds.

3 *First*, the Complaint should be dismissed with prejudice, or alternatively the
4 Court should quash service of process, pursuant to Rule 12(b)(5) because Defendant
5 was never served. Plaintiff claims to have served Defendant by “U.S. Mail”, but
6 service by mail is not a valid form of service under the Federal Rules or California law
7 and the “proof of service” filed does not identify where the service packet was
8 purportedly mailed.

9 *Second*, the Complaint should also be dismissed with prejudice pursuant to Rule
10 12(b)(1) because this Court lacks subject matter jurisdiction to decide Plaintiff’s
11 claims under the *Rooker Feldman* doctrine. Plaintiff’s lawsuit is a de facto appeal of
12 multiple state court orders, dating back to 2010, entered in New Jersey and
13 Pennsylvania. Indeed, Plaintiff not only asks the Court for relief that would
14 necessitate overturning those orders, he asks the Court to declare them “null, void,
15 unenforceable, and constitutionally invalid”.

16 *Third*, the Complaint should also be stricken without leave to amend pursuant to
17 California’s anti-SLAPP rule. The claims arise from Defendant’s participation in
18 litigation, which is protected activity, and Plaintiff has no possibility of prevailing on
19 any of his claims because they are barred by the litigation privilege and they are
20 untimely.

21 *Fourth*, the Complaint should also be dismissed with prejudice pursuant to Rule
22 12(b)(6) because the allegations fail to plead any plausible claim. Even accepting the
23 well-pled allegations as true, Plaintiff has not satisfied his pleading burden. In fact,
24 the allegations confirm Plaintiff’s claims are fatally doomed because, at bottom,
25 Plaintiff seeks to hold Defendant liable in tort for defending himself in lawsuits that
26 Plaintiff and Ms. Coley brought against him and for orders issued by various courts,
27 neither of which can form the basis for the legal claims asserted.

1 Pursuant to L.R. 7-3 and the Court’s Standing Order, counsel for Defendant
2 attempted to meet and confer with Plaintiff, repeatedly between July 9 and July 17,
3 but Plaintiff refused to respond to multiple emails—including a July 9 email setting
4 forth the grounds for this Motion, refused to pick up the phone or return counsel’s
5 calls. *See* Wirtschafter Decl., ¶¶ 2-6, Ex. A. Plaintiff also failed to attend a Zoom
6 videoconference on July 17, 2025. *Id.*, ¶ 5, Ex. A, pp. 13-15.

7 This Motion is based on this Notice; the Memorandum of Points and
8 Authorities in Support; the Declaration of Carla M. Wirtschafter, and all exhibits
9 thereto, the Request for Judicial Notice filed concurrently herewith, and the complete
10 files and records in this action; matters that may be judicially noticed; and any oral or
11 documentary evidence that may be presented at or before the hearing on this matter.

12 DATED: July 18, 2025

REED SMITH LLP

13
14
15 By: /s/ Carla M. Wirtschafter
16 Carla M. Wirtschafter
17 Allison L. Kahn
18 Attorneys for Defendant
19 SHAWN COREY CARTER
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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiff Rymir Satterthwaite (“Plaintiff”) has been harassing Defendant Shawn Corey Carter (“Defendant”) for fifteen years. This lawsuit is the latest ploy in a long history of frivolous and vexatious filings that resulted in an order enjoining Plaintiff from further filings in court in the State of New Jersey without court approval and a determination that the filings seek proper legal relief. Plaintiff’s lawsuit is another frivolous and vexatious filing seeking to make an end run around the injunction issued in the New Jersey court and attempting to relitigate issues that have been repeatedly decided against Plaintiff over the last fifteen years.

Defendant is the co-founder of Roc Nation, and an internationally-known musical artist and businessman whose hard-earned success, brand, and brand of products is recognized worldwide. Since 2010, Plaintiff, his mother Wanda Satterthwaite, and his caretaker and godmother Lillie Coley—who filed a related action with duplicative claims and allegations at Case No. 2:25-cv-04216-SPG-(MARx), which Defendant has also today moved to dismiss—have repeatedly dragged Defendant into court based upon the false assertion that he is Defendant’s biological child. Courts in the State of Pennsylvania and New Jersey have rejected such claims, including because Plaintiff’s paternity was previously established for someone else in a court proceeding—someone who Plaintiff’s mother claimed no later than 1994 was Plaintiff’s father—and that person was ordered to pay child support. As the initial court rejecting Plaintiff’s demands explained, in an order dated July 16, 2010, “mother cannot wait seventeen years to name a second person as the father of her child when she identified another person as the father sixteen years ago and never attempted to recant that identification until now.”²

² RJN, Ex. B (July 16, 2010 Order).

Plaintiff's lawsuit, at bottom, alleges the various court orders issued in the last fifteen years, which uniformly rejected Plaintiff's claims, got it wrong and this Court should find Defendant liable for fraud, abuse of process, emotional distress and unjust enrichment because Plaintiff disagrees with the orders entered against him. The Complaint is fatally flawed and should be dismissed with prejudice for any one of the following reasons: (1) Defendant was not properly served; (2) the *Rooker-Feldman* doctrine precludes Plaintiff from seeking a *de facto* appeal of the Pennsylvania and New Jersey state court orders; (3) California's anti-SLAPP statute bars Plaintiff's claims because they are based on protected litigation activity and barred by the litigation privilege and the statute of limitations, and (4) the complaint fails to adequately plead a plausible claim.

II. RELEVANT FACTS

A. The Claims and Allegations Plaintiff Makes In This Lawsuit Have Already Been Considered and Rejected Multiple Times

Since 2010, Plaintiff has subjected Defendant to proceedings in New Jersey and Pennsylvania contending that Defendant is his biological father and should be ordered to submit to paternity testing and to pay support. Plaintiff's claims and demands have been uniformly rejected. *See* RJN, Ex. B (July 16, 2010 Order), Ex. C (May 19, 2011 Order); Ex. D (April 23, 2013 Order); Ex. E (September 17, 2013 Order). When Plaintiff refused to abide by these orders and remained undeterred even after being held in contempt, he was subject to the extraordinary step of being enjoined from bringing any action in the State of New Jersey without court review and determination that his claims sought proper legal relief. *Id.*, Ex. G (January 13, 2022 Order). In a clear attempt to make an end run around this injunction, he filed this lawsuit insisting the courts erred and Defendant should be found liable in tort.

More specifically, in June 2010, Plaintiff's mother filed a motion for genetic testing of Defendant to determine the paternity of Plaintiff in Pennsylvania state court.

1 *Id.*, Ex. D (April 23, 2013 Order), p. 1; Ex. E (September 17, 2013 Order), ¶ 5. At the
2 same time, Plaintiff’s mother filed a motion for genetic testing of another individual
3 “who had previously been identified as the father” and who “had been ordered to pay
4 [child] support.” *Id.*, Ex. D (April 23, 2013 Order), p. 1; Ex. E (September 17, 2013
5 Order), ¶ 4. On July 16, 2010, the Pennsylvania court denied the request for genetic
6 testing of Defendant based on estoppel, stating “as a matter of law, the motion must be
7 denied because mother cannot wait seventeen years to name a second person as the
8 father of her child when she identified another person as the father sixteen years ago
9 and never attempted to recant that identification until now.” *Id.*, Ex. B (July 16, 2010
10 Order); Ex. D (April 23, 2013 Order), pp. 1-2.

11 Undeterred, on March 28, 2011, Plaintiff and his mother brought another
12 petition in Pennsylvania for Defendant to submit to genetic testing. *Id.*, Ex. D (April
13 23, 2013 Order), p. 2; Ex. E (September 17, 2013 Order), ¶ 7. The court denied that
14 petition on May 19, 2011, stating, this “matter is res judicata. A final order was
15 entered July 16, 2010 on this matter, and mother did not appeal said order.” *Id.*, Ex. C
16 (May 19, 2011 Order); Ex. D (April 23, 2013 Order), p. 2; Ex. E (September 17, 2013
17 Order), ¶ 8. On April 27, 2012, Plaintiff’s mother filed a petition to vacate the July
18 2010 and May 2011 orders; that request was granted, but following an appeal by
19 Defendant, the Superior Court of Pennsylvania reversed the vacating order and
20 reinstated the July 2010 and May 2011 Orders. *Id.*, Ex. D (April 23, 2013 Order), pp.
21 2-4; Ex. E (September 17, 2013 Order), ¶¶ 9-11.

22 Separately, in July 2011, Plaintiff’s caretaker and godmother, related plaintiff
23 Lillie Coley, filed a petition for paternity against Defendant in New Jersey. *Id.*, Ex. D
24 (April 23, 2013 Order), p. 2; Ex. E (September 17, 2013 Order), ¶ 14. That petition
25 was denied because the New Jersey court determined that Pennsylvania has
26 jurisdiction. *Id.* Separately, Plaintiff and his mother filed another petition, in a
27 different New Jersey county, for Defendant to submit to genetic testing. *Id.* Ex. E
28

1 (September 17, 2013 Order), ¶¶ 1, 14. On September 17, 2013, the New Jersey court
2 denied the petition because “the matter has been previously decided in Philadelphia
3 County, Pennsylvania”, the Pennsylvania court orders from July 2010 and May 2011
4 “remain in full force and effect” and “[t]he Court cannot permit the parties to forum
5 shop until finding a result that is satisfactory to them.” *Id.*, ¶¶ 3, 12, 13.

6 Over the next nine years, the New Jersey courts issued a series of orders finding
7 Plaintiff to be in violation of prior court orders, including orders requiring the matters
8 to be sealed and held Plaintiff in contempt at least four times. Wirschafter Decl., ¶
9 17. On January 13, 2022, pursuant to the court’s *sua sponte* Order to Show Cause, the
10 Superior Court of New Jersey found that Plaintiff, related Plaintiff Lillie Coley and
11 Plaintiff’s mother “have filed, and continue to file, numerous frivolous and vexatious
12 Applications with this Court and other courts throughout the State of New Jersey, and
13 that traditional sanctions have failed to deter” them. RJN, Ex. G (January 13, 2022
14 Order), p. 3. As a result, the court found good cause to enjoin Plaintiff, related
15 Plaintiff Lillie Coley and Plaintiff’s mother “from filing any action in a New Jersey
16 State Court absent a review and determination by this Court that the action is pled in a
17 manner that seeks proper legal relief.” *Id.* Again undeterred, Plaintiff attempted to
18 challenge the injunction in lawsuits brought against the New Jersey Supreme Court
19 and judges in that Court in federal court in Pennsylvania and New Jersey; both were
20 dismissed with prejudice. RJN, Ex. H (August 24, 2024 PA Order); Ex. I (May 22,
21 2025 NJ Order). This lawsuit followed.

22 **B. Plaintiff Seeks To Relitigate Court Orders Decided Against Him**

23 Plaintiff’s Complaint alleges that he is the biological son of Defendant, and that
24 Defendant has engaged in conduct to “suppress Plaintiff [sic] Rymir’s paternity claim
25 and prevent legal accountability.” Dkt. 1 (the “Compl.”), ¶¶ 3, 11. Plaintiff alleges he
26 was “repeatedly denied a fair and impartial forum to seek redress” because of
27 Defendant’s “manipulation of the legal process.” *Id.*, ¶ 4.

1 The “manipulation” Plaintiff alleges consists of court orders dismissing
2 Plaintiff’s claims and denying his demands to force Defendant to submit to paternity
3 testing without a legal basis. *Id.*, ¶¶ 15-19. Plaintiff also alleges that Defendant
4 concealed facts regarding “his contacts with the State of New Jersey” in order to
5 secure dismissal of Plaintiff’s claims based on a lack of personal jurisdiction. *Id.*, ¶¶
6 86, 87, 94, 95, 103, 111-112, 120-121. The “harm” Plaintiff alleges is being unable to
7 advance his case “publicly or through the legal system,” which Plaintiff states
8 “reached its apex when Defendant secured an extraordinary injunction barring
9 Plaintiff from filing any complaints or applications in any court throughout the State
10 of New Jersey.” *Id.*, ¶¶ 20, 25; *see also* ¶¶ 28-44 (detailing court orders Plaintiff takes
11 issue with).³

12 Based on the foregoing, Plaintiff asserts claims for fraud, abuse of process,
13 intentional infliction of emotional distress, negligent infliction of emotional distress
14 and unjust enrichment. Plaintiff seeks damages including (i) “loss of financial
15 support” and “the value of support wrongfully withheld”—*i.e.* the paternity claims
16 repeatedly rejected, (ii) declaratory relief that “all judgments liens, sealing orders, and
17 other court actions . . . are null, void, unenforceable, and constitutionally invalid”, and
18 (iii) injunctive relief enjoining Defendant from “interference with property rights,
19 [e]nforcement of [purported] fraudulent liens, [and] use of the judicial process” to
20 respond to Plaintiff’s false claims. *Id.*, Prayer for Relief, ¶¶ 1, 2, 4-5.

21 **III. DEFENDANT WAS NOT PROPERLY SERVED**

22 Defendant first moves to dismiss, or alternatively to quash service of process,
23 pursuant to Rule 12(b)(5) on the ground that Plaintiff has not complied with the
24 service requirements under Rule 4 of the Federal Rules of Civil Procedure. A Rule

25 ³ Plaintiff also includes a patently false and absurd allegation suggesting that the
26 courts’ orders and Defendant’s utilization of the judicial process to successfully
27 protect his rights is somehow to blame for his vehicle purportedly being shot on an
28 unidentified date by unidentified persons. *Id.*, ¶ 23.

1 12(b)(5) motion challenges “irregularities in the manner of delivery of the summons
2 and complaint.” *Chilicky v. Schweiker*, 796 F.2d 1131, 1136 (9th Cir. 1986), *reversed*
3 *on other grounds by Schweiker v. Chilicky*, 487 U.S. 412 (1988). Plaintiff bears the
4 burden of establishing that service was valid. *Brockmeyer v. May*, 383 F.3d 798, 801
5 (9th Cir. 2004). “If the plaintiff is unable to satisfy this burden, the Court has the
6 discretion to either dismiss the action or retain the action and quash the service of
7 process.” *Lopez v. Contreras*, No. 21-CV-1329 DMS (JLB), 2021 U.S. Dist. LEXIS
8 258192, at *10 (S.D. Cal. Dec. 1, 2021).

9 Here, while the record is confusing, it establishes that proper service has not
10 been effectuated. On May 29, 2025, Plaintiff filed a document titled “proof of service”
11 (Dkt. 7) indicating that service was completed on May 23, 2025. The document filed
12 is the proof of service form attached to the summons issued by the Court. The filed
13 document includes a check in the box “other” with the following information added
14 “[m]ailed via USPS”, and two tracking numbers. Attached to the filed document are
15 the tracking number printouts from the USPS website—which indicate delivery on
16 May 23 and May 27 “in or at the mailbox” in “Malibu, CA.” No address is identified
17 on the proof or the tracking number printouts. *Id.*

18 On June 2, 2025, Plaintiff filed a document titled “declaration of attempted
19 service” which states that on May 24, the process server attempted to serve a copy of
20 the summons and complaint via “the Green certified receipt USPS priority mail”, but
21 the package was refused on May 27 (Dkt. 8). On June 15, 2025, Plaintiff filed a
22 document titled “Clarify USPS” which identifies the USPS tracking number ending in
23 594874, one of the two listed in the “proof of service” filed at Dkt. 7, as related to this
24 matter (Dkt. 12). It therefore appears that Plaintiff is contending he served Defendant
25 via USPS mail by delivering the package with the tracking number ending in 594874
26 “in or at the mailbox” in “Malibu, CA” on May 27. None of the filed documents
27 identify the address where the package was mailed.

1 Regardless, service by USPS mail is not proper service. Rule 4(e)(2) does not
2 provide an option for service by mail nor does the California Code of Civil Procedure
3 (“CCP”) permit service by mail on a person within California. *See* CCP §415.10 *et*
4 *seq.* CCP §415.40 only permits service by mail on a party *outside of California* and in
5 order to effectuate service, a return receipt is required. Plaintiff also did not comply
6 with the requirements for service pursuant to CCP §415.20 or CCP §415.30. CCP
7 §415.20, the substitute service provision, requires that a copy of the summons and
8 complaint be left at “a dwelling house, usual place of abode, usual place of business,
9 or usual mailing address other than a United States Postal Service post office box, in
10 the presence of a competent member of the household or a person apparently in charge
11 . . . , at least 18 years of age, who shall be informed of the contents thereof.”
12 Plaintiff’s proof of service does not provide any evidence of compliance with this
13 requirement. CCP §415.30 also is not applicable because it provides for service by
14 mail *when accompanied by an acknowledgement of receipt* that must be returned to
15 effectuate service. *See* CCP §415.30(c).

16 Plaintiff’s purported service by delivering a package with unspecified contents
17 to an unidentified mailbox in Malibu is not proper service under any rule, and the
18 Court should dismiss the Complaint with prejudice.

19 **IV. THE ROOKER-FELDMAN DOCTRINE BARS PLAINTIFF’S LAWSUIT**

20 Even if Defendant had been properly served, the Complaint should be
21 dismissed pursuant to Rule 12(b)(1) because Plaintiff’s claims are barred by the
22 *Rooker-Feldman* Doctrine. Under Federal Rule of Civil Procedure 12(b)(1), a party
23 may raise by motion the defense that the complaint lacks subject-matter jurisdiction,
24 and may do so via a facial or factual attack. *See White v. Lee*, 227 F.3d 1214, 1242
25 (9th Cir. 2000). “In a facial attack, the challenger asserts that the allegations contained
26 in a complaint are insufficient on their face to invoke federal jurisdiction.” *Safe Air for*
27 *Everyone v. Meyer*, 373 F.3d 1035, 1039 (9th Cir. 2004). A court resolves a facial
28

1 attack “[a]ccepting the plaintiff’s allegations as true and drawing all reasonable
2 inferences in the plaintiff’s favor, the court determines whether the allegations are
3 sufficient . . . to invoke the court’s jurisdiction.” *Leite v. Crane Co.*, 749 F.3d 1117,
4 1121 (9th Cir. 2014).

5 Under the *Rooker-Feldman* doctrine, a federal court is without jurisdiction to
6 exercise *de facto* appellate review of state court judgments. *Kougasian v. TMSL, Inc.*,
7 359 F.3d 1136, 1139 (9th Cir. 2004) (citing *Rooker v. Fid. Tr. Co.*, 263 U.S. 413
8 (1923); *District of Columbia Ct. of Appeals v. Feldman*, 460 U.S. 462 (1983)). “If a
9 federal plaintiff asserts as a legal wrong an allegedly erroneous decision by a state
10 court, and seeks relief from a state court judgment based on that decision, *Rooker-*
11 *Feldman* bars subject matter jurisdiction in federal district court.” *Id.* at 1140 (citation
12 omitted). This doctrine prevents “a party losing in state court ... from seeking what in
13 substance would be appellate review of the state judgment in a United States District
14 Court, based on the losing party’s claim that the judgment itself violates the loser’s
15 federal [constitutional] rights.” *Johnson v. DeGrandy*, 512 U.S. 997, 1005-06 (1994).
16 In determining whether an action functions as a *de facto* appeal, courts “pay close
17 attention to the *relief* sought by the federal-court plaintiff.” *Bianchi v. Rylaarsdam*,
18 334 F.3d 895, 900 (9th Cir. 2003) (citation omitted) (emphasis in original). “*Rooker-*
19 *Feldman* bars any suit that seeks to disrupt or ‘undo’ a prior state-court judgment.” *Id.*
20 at 901 (citation and footnote omitted).

21 The Court need only look at the prayer for relief to conclude that *Rooker-*
22 *Feldman* bars Plaintiff’s claims: Plaintiff is asking this Court to declare the court
23 orders entered against him in New Jersey and Pennsylvania “null, void, unenforceable,
24 and constitutionally invalid” and to award him the “support damages” he contends
25 Defendant unjustly retained because he was not required to pay child support. *See*
26 Compl., Prayer for Relief, ¶¶ 1, 2, 4-5. As such, Plaintiff not only asks this Court to
27 void the state court orders, he asks this court to reverse the July 16, 2010 Pennsylvania
28

1 court order finding, “as a matter of law, the motion [for Defendant to submit to
2 genetic testing] must be denied because mother cannot wait seventeen years to name a
3 second person as the father of her child when she identified another person as the
4 father sixteen years ago and never attempted to recant that identification until now.”
5 RJN, Ex. B (July 16, 2010 Order); Ex. D (April 23, 2013 Order), pp. 1-2.

6 In addition to the prayer for relief, the allegations detail a history of orders
7 entered against Plaintiff rejecting the very contentions he now asks this Court to
8 determine. Plaintiff alleged there, as he does here, that Defendant’s participation in
9 those proceedings, and enforcement of court orders resulting from those proceedings,
10 resulted from fraud and a manipulation of the legal process which denied Plaintiff a
11 fair and impartial judicial forum and the opportunity to advance his case “publicly or
12 through the legal system.” Compl., ¶¶ 12-45; RJN, Ex. F (February 27, 2018 Order).
13 Plaintiff also alleges that when he filed a lawsuit in New Jersey in December 2014
14 alleging Defendant concealed evidence of property ownership in New Jersey, the
15 court nonetheless determined it lacked personal jurisdiction and dismissed the case.
16 *Id.*, ¶¶ 30-34. He now asks this Court to not only unwind that order, but to find that
17 Defendant’s successful jurisdiction arguments were fraudulent. *Id.*, 86-89; 93-96, 102-
18 103, 111-115, 120-122.

19 When, as here, “the relief requested in the federal action would effectively
20 reverse the state court decision or void its ruling, the claims are inextricably
21 intertwined and the federal action must be dismissed for lack of subject matter
22 jurisdiction.” *Boormeester v. Univ. of S. Cal.*, No. CV 19-2137 FMO (MBKx), 2025
23 U.S. Dist. LEXIS 45205, at *8 (C.D. Cal. Mar. 10, 2025) (citing *Cooper v. Ramos*,
24 704 F.3d 772, 782 (9th Cir. 2012) (explaining that Rooker-Feldman bars “inextricably
25 intertwined” claims where federal adjudication “would impermissibly undercut the
26 state ruling on the same issues”)); *Kulick v. Leisure Vill. Ass’n, Inc.*, Case No. 18-cv-
27 05718-PA (SSx), 2018 WL 11253972, at *2 (C.D. Cal. July 9, 2018), *aff’d*, 741 Fed.
28

1 App’x 459 (9th Cir. 2018), cert. denied, 139 S. Ct. 2613 (2019) (“Even if a plaintiff
2 frames his claim as a constitutional challenge, if he seeks what, in substance, would be
3 appellate review of a state judgment, the action is barred by Rooker-Feldman.”)
4 (citations omitted); *Doe & Assocs. L. Offs. v. Napolitano*, 252 F.3d 1026, 1030 (9th
5 Cir. 2001) (“Where the district court must hold that the state court was wrong in order
6 to find in favor of the plaintiff, the issues presented to both courts are inextricably
7 intertwined.”)

8 Because resolution of Plaintiff’s claims necessarily requires revisiting the
9 orders in both the New Jersey and Pennsylvania courts denying Plaintiff’s request for
10 paternity testing and child support from Defendant, the Complaint should be
11 dismissed with prejudice under *Rooker-Feldman*. See *Steinmeyer v. Lab’y Corp. of*
12 *Am. Holdings*, 676 F. Supp. 3d 851, 867 (S.D. Cal. 2023) (denying leave to amend
13 because “no amendment can fix the fundamental defects that the Court lacks
14 jurisdiction over Plaintiff’s de facto appeal”); *DJ St. John v. Tatro*, No. 15-cv-2552-
15 GPC-JLB, 2016 U.S. Dist. LEXIS 38929, 2016 WL 1162678, at *10 (S.D. Cal. Mar.
16 23, 2016) (denying leave to amend due to incurable standing issues and the
17 applicability of the *Rooker Feldman* doctrine), *aff’d*, 698 Fed. Appx. 917 (9th Cir.
18 2017).

19 **V. PLAINTIFF’S SLAPP SUIT SHOULD BE DISMISSED**

20 Plaintiff’s Complaint should also be dismissed pursuant to CCP §425.16. A
21 special motion to strike under California’s anti-SLAPP statute involves a two-step
22 inquiry. *Herring Networks, Inc. v. Maddow*, 8 F.4th 1148, 1155 (9th Cir. 2021). First,
23 “the moving defendant must make a *prima facie* showing that the plaintiff’s suit arises
24 from an act in furtherance of the defendant’s constitutional right to free speech.”
25 *Makaeff v. Trump Univ., LLC*, 715 F.3d 254, 261 (9th Cir. 2013). At the second step,
26 the burden shifts to the plaintiff “to establish a reasonable probability that it will
27 prevail on its claim.” *Id.*

1 In construing an anti-SLAPP motion under Rule 12(b)(6), courts accept as true
2 the allegations in the complaint, but are not bound to accept as true a legal conclusion
3 couched as a factual argument, “and a formulaic recitation of the elements of a cause
4 of action will not do.” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007); *see also*
5 *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (“To survive a motion to dismiss, a
6 complaint must contain sufficient factual matter, accepted as true, to ‘state a claim to
7 relief that is plausible on its face.’”)

8 **A. Defendant’s Use of the Judicial Process is Protected Activity**

9 With respect to the first step of the analysis, “[t]he only thing the defendant
10 needs to establish to invoke the potential protection of the SLAPP statute is that the
11 challenged lawsuit arose from an act on the part of the defendant in furtherance of her
12 right of petition or free speech.” *Equilon Enters. v. Consumer Cause, Inc.*, 29 Cal. 4th
13 53, 61 (2002) (internal quotes omitted).⁴ “A defendant meets this burden by
14 demonstrating that the act underlying the plaintiff’s cause fits one of the categories
15 spelled out in section 425.16, subdivision (e)” *City of Cotati v. Cashman*, 29 Cal.
16 4th 69, 78 (2002) (quoting *Braun v. Chronicle Publ’g Co.*, 52 Cal. App. 4th 1036,
17 1043 (1997)).

18 The “protected activities” covered by the anti-SLAPP statute and relevant to
19 this Motion include (1) any written or oral statement or writing made before a judicial
20 proceeding and (2) any written or oral statement or writing made in connection with
21 an issue under consideration or review by a judicial body. CCP § 425.16(e)(1)-(2). In
22 determining whether the underlying claims arose from protected activity, the court

23 ⁴ “Where a federal court has jurisdiction to hear an anti-SLAPP motion, the court is
24 bound by decisions of the California Supreme Court.” *Kleefeld v. Wells Fargo Bank,*
25 *N.A.*, No. 2:23-cv-07619-ODW (AJRx), 2024 U.S. Dist. LEXIS 39713, at *7 (C.D.
26 Cal. Mar. 6, 2024); *Hilton v. Hallmark Cards*, 599 F.3d 894, 905 (9th Cir. 2010)
27 (federal courts evaluating claims brought under state law “must begin with the
28 pronouncements of the state’s highest court, which bind us”). Accordingly, Defendant
cites to California state law herein.

1 must look to the “allegedly wrongful and injurious conduct of the defendant, *rather*
2 *than the damage which flows from said conduct.*” *Renewable Res. Coal., Inc. v.*
3 *Pebble Mines Corp.*, 218 Cal. App. 4th 384, 396-97 (2013) (emphasis in original);
4 *Finton Constr., Inc. v. Bidna & Keys, APLC*, 238 Cal. App. 4th 200, 209 (2015)
5 (finding that a court should look to the activities that form the basis for each cause of
6 action and then determine whether those activities are within the scope of the anti-
7 SLAPP statute).

8 Here, each and every one of Plaintiff’s claims is premised on court orders or
9 Defendant’s statements and writings made in prior civil litigation. *See* Section II,
10 *supra*. More specifically, Plaintiff’s first cause of action for deceit alleges that
11 Defendant concealed and misrepresented his ownership of property in New Jersey in
12 court filings, which caused the New Jersey court to dismiss his lawsuit for lack of
13 jurisdiction. Complaint, ¶¶ 86-89. Similarly, Plaintiff’s second cause of action for
14 abuse of process alleges that “[r]ather than utilizing the courts to resolve a genuine
15 legal dispute in good faith, Defendant Carter invoked jurisdictional defenses and filed
16 responsive pleadings with the ulterior motive of obstructing and delaying efforts to
17 pursue paternity-related claims.” *Id.*, ¶ 94. Plaintiff again alleges that Defendant
18 denied owning property in New Jersey, and leveraged sealed orders, false filings, and
19 procedural technicalities. *Id.*, ¶ 96. Plaintiff’s emotional distress claims (third and
20 fourth causes of action) likewise contend Defendant is liable because he concealed
21 and misrepresented his contacts with the state of New Jersey, including his ownership of
22 property in the state to mislead courts. *Id.*, ¶¶ 102-103; 111-112, 115. Finally,
23 Plaintiff again alleges in support of his fifth cause of action that Defendant concealed
24 from the court “his ties to New Jersey – including ownership of real property and
25 other jurisdictionally relevant contacts – to evade court-ordered responsibilities and
26 legal obligations.” *Id.*, ¶ 120.

27 Such activities are squarely protected by California’s anti-SLAPP statute. *See*
28

1 *Kenne v. Stennis*, 230 Cal. App. 4th 953, 965 (2014) (“[S]tatements, writings and
2 pleadings in connection with civil litigation are covered by the anti-SLAPP statute,
3 and that statute does not require any showing that the litigated matter concerns a
4 matter of public interest.”); *Rusheen v. Cohen*, 37 Cal. 4th 1048, 1056, (2006) (noting
5 that protected activity includes “communicative conduct such as the filing, funding,
6 and prosecution of a civil action”); *Cabral v. Martins*, 177 Cal. App. 4th 471, 482
7 (2009) (evading child support obligations insufficient to take case outside of scope of
8 anti-SLAPP statute).

9 **B. Plaintiff Cannot Demonstrate A Likelihood of Prevailing On Any**
10 **Claim**

11 Because Plaintiff’s claims arise from protected activities under the anti-SLAPP
12 statute, and this Motion attacks the legal sufficiency of the Complaint, Plaintiff must
13 show that each challenged claim is legally sufficient to sustain a favorable judgment.
14 *See Planned Parenthood Fed’n of Am., Inc. v. Ctr. for Med. Progress*, 890 F.3d 828,
15 834 (9th Cir. 2018). Plaintiff cannot do so because both the litigation privilege and the
16 statute of limitations bar each claim pled.

17 **1. The Litigation Privilege Bars Each of Plaintiff’s Claims**

18 The litigation privilege bars each of Plaintiff’s claims because as the California
19 Supreme Court has held, the litigation privilege “immunize[s] defendants from tort
20 liability based on theories of abuse of process ..., intentional infliction of emotional
21 distress ..., negligence and fraud.” *Action Apartment Ass’n, Inc. v. City of Santa*
22 *Monica*, 41 Cal. 4th 1232, 1242 (2007) (internal citations omitted); *see also Graham-*
23 *Sult v. Clainos*, 756 F.3d 724, 741 (9th Cir. 2014) (“California’s litigation privilege,
24 codified in California Civil Code Section 47(b), “immunizes defendants from virtually
25 any tort liability...with the sole exception of causes of action for malicious
26 prosecution.”).

27 Section 47(b) “establishes a privilege that bars liability in tort for the making of
28

1 certain statements,” including those made in any “judicial proceeding.” *Hagberg v.*
2 *Cal. Fed. Bank*, 32 Cal. 4th 350, 360 (2004) (internal quotes omitted). “[S]ection
3 47(b) encompasses not only testimony in court and statements made in pleadings, but
4 also statements made prior to the filing of a lawsuit, whether in preparation for
5 anticipated litigation or to investigate the feasibility of filing a lawsuit.” *Id.* at 361.
6 The privilege also extends to statements made by private parties in connection with
7 judicial proceedings. *See id.* at 365. Any doubt about whether the privilege applies is
8 resolved in favor of applying it. *Finton Constr., Inc. v. Bidna & Keys, APLC*, 238 Cal.
9 App. 4th at 212.

10 Where, as here, the communications are made by one of the litigants, all that is
11 required is that the communications “be connected with or have some logical relation”
12 to the action. *Silberg v. Anderson*, 50 Cal. 3d 205, 212 (1990). It is the “subject matter
13 or context” of the statement that must bear a logical relation to the action, not the
14 statement itself. *Sacramento Brewing Co. v. Desmond, Miller & Desmond*, 75 Cal.
15 App. 4th 1082, 1089-90 (1999). The only manner to defeat the privilege is to show
16 that the communication was “so palpably irrelevant to the subject matter of the action
17 that no reasonable person can doubt its irrelevance.” *Id.*

18 Here, the allegations confirm that each of Plaintiff’s claims falls squarely within
19 the protection of the litigation privilege. In support of each claim, Plaintiff alleges that
20 Defendant is liable because he “concealed material facts regarding his contacts with
21 the State of New Jersey” which he “had a duty to disclose [] during judicial
22 proceedings where personal jurisdiction was challenged”, and “misused the judicial
23 process in multiple state court proceedings” by “invok[ing] jurisdiction defenses.”
24 Compl. ¶¶ 86-89; 93-96, 102-103, 111-115, 120-122.

25 Regardless of Plaintiff’s mistaken contentions about the veracity of the defenses
26 and Defendant’s jurisdictional arguments, they are covered by the litigation privilege
27 and cannot form the basis for liability in tort. *See Weiser Law Firm, P.C. v. Hartleib*,
28

No. SACV 23-00171-CJC (JDEx), 2023 U.S. Dist. LEXIS 116300, at *29 (C.D. Cal. July 6, 2023) (“[T]he litigation privilege applies even when statements are made for improper purposes”); *Augustus v. Cty. of L.A.*, No. 2:20-cv-11255-FLA (RAOx), 2023 U.S. Dist. LEXIS 52172, at *24 (C.D. Cal. Mar. 24, 2023) (statements made to the court and in court filings in a guardianship proceeding were privileged under Section 47(b) and dismissing complaint); *Sacramento Brewing Co.*, 75 Cal. App. 4th at 1090 (“[I]t would be a poor privilege indeed that required the truth of the alleged ... communication to be determined in order to determine the privilege’s application.”).

Because the litigation privilege bars every claim pled, Plaintiff cannot demonstrate a likelihood of prevailing on the merits.

2. Each Claim Is Barred By the Statute of Limitations

Plaintiff cannot demonstrate a likelihood of prevailing on the merits for the additional reason that all of his claims are time-barred. Plaintiff’s claims have a statute of limitations of either two or three years. *See* CCP § 338(d) (3 years statute of limitations for claims based on fraud); CCP §335.1 (2 years statute of limitations for abuse of process, intentional infliction of emotional distress and negligent infliction of emotional distress); *see also Soliman v. CVS RX Servs.*, 570 F. App’x 710, 712 (9th Cir. 2014) (fraud 3 year statute of limitations); *United States v. Gorski*, No. CV 11-4252 AG, 2012 U.S. Dist. LEXIS 196349, at *10 (C.D. Cal. Mar. 22, 2012) (abuse of process 2 year statute of limitations); *Bitarafan v. Claremont Police Dep’t*, No. 2:24-cv-03283-SVW-PVC, 2025 U.S. Dist. LEXIS 31894, at *7 (C.D. Cal. Jan. 3, 2025) (intentional infliction of emotional distress 2 year statute of limitations); *Id.* (negligent infliction of emotional distress 2 year statute of limitations); *Wu v. Sunrider Corp.*, No. 17-4825 DSF (SSx), 2018 U.S. Dist. LEXIS 227591, at *13 (C.D. Cal. May 22, 2018) (statute of limitations for unjust enrichment depends on the underlying claim and is generally two years, but when based on fraud three years).

Plaintiff alleges that between August 13, 2012 and March 26, 2015, Defendant

1 made misrepresentations in court proceedings about his contacts with the State of New
2 Jersey which caused the claims brought against him to be dismissed for lack of
3 personal jurisdiction and prevented Plaintiff from “advancing [his] case, publicly or
4 through the legal system.” Comp., ¶¶ 15-20, 28-33, 86-89; 93-96, 102-103, 111-115,
5 120-122. According to Plaintiff’s allegations, he was aware of the alleged
6 misrepresentations as early as 2012 and no later than December 2014 when he
7 purportedly obtained “newly discovered evidence indicating Defendant Carter’s
8 owning multiple properties in New Jersey, contradicting earlier assertions and
9 affirming that the court possessed jurisdiction, [sic] was not given its due process” and
10 resulting in dismissal of the lawsuit on March 26, 2015. *Id.*, ¶¶ 30, 33. As such,
11 Plaintiff’s claims should have been brought no later than March 2017 and March 2018
12 (fraud only) and his May 2025 complaint is years too late.

13 Similarly, even to the extent Plaintiff’s claims are based on his allegations about
14 the January 13, 2022 “court issued injunction barring Plaintiff [] from filing any
15 complaints or applications in the trial court and throughout the State of New Jersey”,
16 *id.*, ¶¶ 39-40, they are still time-barred and should have been brought by January 2024
17 or January 2025 (fraud only). Defendant also notes that the injunction was issued
18 pursuant to the court’s *sua sponte* order to show cause based upon Plaintiff’s history
19 of “frivolous and vexatious” filings, so any claim that Defendant played a role in that
20 order or can be liable in tort for its issuance is contradicted by the order itself. RJN,
21 Ex. G (January 13, 2022 Order), p. 3.

22 Because Plaintiff’s claims are all time-barred, he has no probability of
23 prevailing and the Court should grant Defendant’s motion pursuant to CCP §425.16
24 *See Peregrine Funding, Inc. v. Sheppard Mullin Richter & Hampton LLP*, 133 Cal.
25 App. 4th 658, 682-689 (2005); *Trinity Christian Ctr. of Santa Ana, Inc. v. McVeigh*,
26 No. SACV 13-1334 DOC (RNBx), 2013 U.S. Dist. LEXIS 157125, at *24 (C.D. Cal.
27 Oct. 31, 2013), *aff’d*, 637 F. App’x 339 (9th Cir. 2016) (granting anti-SLAPP motion
28

1 because there was no probability of prevailing when statute of limitations had run).

2 **C. Defendant Is Entitled to His Fees and Costs**

3 A prevailing anti-SLAPP movant “shall be entitled to recover his or her
4 attorney’s fees and costs.” Cal. Code Civ. Proc. § 425.16(c). Ninth Circuit courts
5 consistently hold that “California anti-SLAPP motions to strike and entitlement to fees
6 and costs are available to litigants proceeding in federal court, and that these
7 provisions do not conflict with the Federal Rules of Civil Procedure.” *Thomas v. Fry’s*
8 *Elects., Inc.*, 400 F.3d 1206, 1206 (9th Cir. 2005) (citing *United States ex rel.*
9 *Newsham v. Lockheed Missiles & Space Co.*, 190 F.3d 963, 973 (9th Cir. 1999);
10 *Keller v. Elec. Arts Inc. (In re NCAA Student-Athlete Name & Likeness Licensing*
11 *Litig.)*, 724 F.3d 1268, 1272 (9th Cir. 2013). Defendant should therefore be awarded
12 his reasonable fees and costs in an amount to be determined pursuant to a subsequent
13 filing.

14 **VI. THE COMPLAINT FAILS TO PLEAD PLAUSIBLE CLAIMS**

15 In addition, each claim should be dismissed with prejudice pursuant to Federal
16 Rule of Civil Procedure 12(b)(6) (“Rule 12(b)(6)”) because the Complaint fails to
17 allege any plausible claim. Under Rule 12(b)(6), a party may bring a motion to
18 dismiss for failure to state a claim upon which relief can be granted. To survive a
19 motion to dismiss, a plaintiff must allege “enough facts to state a claim to relief that is
20 plausible on its face.” *Twombly*, 550 U.S. at 570; *Iqbal*, 556 U.S. at 678 (2009). “The
21 plausibility standard is not akin to a ‘probability requirement,’ but it asks for more
22 than a sheer possibility that a defendant has acted unlawfully. Where a complaint
23 pleads facts that are ‘merely consistent with’ a defendant’s liability, it stops short of
24 the line between possibility and plausibility of ‘entitlement to relief.’” *Iqbal*, 556 U.S.
25 at 678 (quoting *Twombly*, 550 U.S. at 556). Courts are not required, however, “to
26 accept as true allegations that are merely conclusory, unwarranted deductions of fact,
27 or unreasonable inferences.” *In re Gilead Scis. Sec. Litig.*, 536 F.3d 1049, 1055 (9th
28

1 Cir. 2008) (internal citation and quotation omitted). Courts also need not accept as
2 true allegations that contradict facts which may be judicially noticed. *See Mullis v.*
3 *U.S. Bankr. Court*, 828 F.2d 1385, 1388 (9th Cir. 1987).

4 Under this standard, in addition to the litigation privilege and statute of
5 limitations arguments set forth in Section V *supra* which also support dismissal with
6 prejudice pursuant to Rule 12(b)(6),⁵ Plaintiff's claims are implausible.

7 **A. Plaintiff's Deceit by Concealment Claim Should Be Dismissed**

8 In addition to being barred by the litigation privilege and because it is untimely,
9 *see* Section V.B *supra*, the Complaint fails to plead facts sufficient to state a plausible
10 claim for deceit by concealment. "To state a claim for fraudulent concealment,
11 Plaintiffs must allege '1) concealment or suppression of a material fact; (2) by a
12 defendant with a duty to disclose the fact to the plaintiff; (3) the defendant intended to
13 defraud the plaintiff by intentionally concealing or suppressing the fact; (4) the
14 plaintiff was unaware of the fact and would not have acted as he or she did if he or she
15 had known of the concealed or suppressed fact; and (5) plaintiff sustained damage as a
16 result of the concealment or suppression of the fact.'" *In re Ronduen*, No. EDCV 23-
17 481 JGB (SHKx), 2023 U.S. Dist. LEXIS 116337, at *30-31 (C.D. Cal. July 6, 2023)
18 (citations omitted).

19 Federal Rule of Civil Procedure 9(b) ("Rule 9(b)") imposes a heightened
20 pleading standard where a complaint alleges fraud or mistake. Fed. R. Civ. P. 9(b). "In
21 alleging fraud or mistake, a party must state with particularity the circumstances
22 constituting fraud or mistake. Malice, intent, knowledge, and other conditions of a
23

24 ⁵ *Morales v. Coop. of Am. Physicians, Inc.*, 180 F.3d 1060, 1062 (9th Cir. 1999)
25 (affirming order granting a motion to dismiss pursuant to Rule 12(b)(6) because the
26 suit was barred by the litigation privilege); *Cappuccio v. Cal. State Univ.*, No. 8:23-
27 cv-02026-FWS-DFM, 2024 U.S. Dist. LEXIS 220648, at *20 (C.D. Cal. Dec. 5,
28 2024) (granting Rule 12(b)(6) motion to dismiss because plaintiff's claim was time-
barred by the statute of limitations)

1 person's mind may be alleged generally.” *Id.* To state a claim for fraud, a party must
2 plead with “particularity the circumstances constituting the fraud,” and the allegations
3 must “be specific enough to give defendants notice of the particular misconduct . . . so
4 that they can defend against the charge and not just deny that they have done anything
5 wrong.” *Kearns v. Ford Motor Co.*, 567 F.3d 1120, 1124 (9th Cir. 2009) (internal
6 citation and quotation omitted). “Averments of fraud must be accompanied by ‘the
7 who, what, when, where, and how’ of the misconduct charged.” *Vess v. Ciba-Geigy*
8 *Corp.*, 317 F.3d 1097, 1106 (9th Cir. 2003).

9 Plaintiff's deceit claim fails to satisfy this standard. The Complaint alleges that
10 Defendant “concealed material facts regarding his contacts with the State of New
11 Jersey” and vaguely references “ownership of real property within the state”, “filing
12 of New Jersey tax records”, and “other financial and legal connections directly
13 relevant to establishing personal jurisdiction in related court proceedings.” Compl. ¶
14 86. But Plaintiff never alleges what fact(s) were purportedly concealed, when or how,
15 or that they were concealed from Plaintiff. The lack of specificity regarding the
16 purportedly concealed facts requires dismissal. *See Bailey v. Nationstar Mortg., LLC*,
17 No. 2:13-cv-2166-JAM-CMK, 2014 U.S. Dist. LEXIS 121415, at *17 (E.D. Cal. Aug.
18 28, 2014), reported and adopted, 2014 U.S. Dist. LEXIS 150128, at *1 (E.D. Cal. Oct.
19 22, 2014) (granting motion to dismiss fraudulent concealment claim without leave to
20 amend where “Plaintiff's allegations as to what the defendants concealed [was]
21 unclear.”); *Ajetunmobi v. Clarion Mortg. Capital, Inc.*, No. SACV 12-0568 DOC
22 (JPRx), 2012 U.S. Dist. LEXIS 99823, at *20 (C.D. Cal. July 17, 2012) (dismissing
23 plaintiff's fraud claim because plaintiffs did not allege “which document or
24 representation contained defendant[’s] intentions that were allegedly concealed”); *Bell*
25 *v. Fed. Home Loan Mortg. Corp.*, No. 11-CV-2514-MMA(RBB), 2012 U.S. Dist.
26 LEXIS 62970, at *17 (S.D. Cal. May 4, 2012) (dismissing fraudulent claim based on
27 concealment of facts because “averments that [defendant] generally concealed
28

1 information and induced reliance, without attendant allegations of dates, times, places,
2 and participants are insufficient to satisfy Rule 9(b)'s particularity requirement.");
3 *Hart v. Bayview Loan Servicing*, No. 2:16-cv-01309-CAS(AFMx), 2016 U.S. Dist.
4 LEXIS 94783, at *21 (C.D. Cal. July 18, 2016) (dismissing fraudulent concealment
5 claim because plaintiffs "fail[ed] to allege with sufficient particularity the 'who, what,
6 when, where and how' regarding the alleged fraudulent concealment of facts
7 underlying the foreclosure sale.")

8 In addition, whatever the alleged concealed facts were, they were not concealed
9 from Plaintiff who was apparently aware of them no later than December 2014 when
10 he filed a lawsuit based on purported newly discovered evidence revealing the
11 concealed facts. Comp., ¶¶ 30-33. Plaintiff cannot assert a fraud claim based on the
12 concealment of facts that he was aware of. *Shapiro v. AT&T Mobility, LLC*, No. 2:19-
13 CV-8972-CBM-(FFMx), 2021 U.S. Dist. LEXIS 245727, at *11 (C.D. Cal. Sep. 30,
14 2021) (dismissing with prejudice cause of action for concealment based in part on
15 "fail[ure] to allege sufficient facts that he was 'unaware of the [alleged undisclosed]
16 fact'") (modification in original).

17 Plaintiff's fraud claim fails for the additional reason that the Complaint fails to
18 allege a duty that Defendant owed to *Plaintiff* to disclose the allegedly suppressed
19 facts. A duty to disclose arises in four limited circumstances. *Matyas v. Summerkids,*
20 *Inc.*, No. LA CV21-04163 JAK (JDEx), 2023 U.S. Dist. LEXIS 195393, at *22 (C.D.
21 Cal. Apr. 19, 2023). They are: "(1) when the defendant is in a fiduciary relationship
22 with the plaintiff; (2) when the defendant had exclusive knowledge of material facts
23 not known to the plaintiff; (3) when the defendant actively conceals a material fact
24 from the plaintiff; and (4) when the defendant makes partial representations but also
25 suppresses some material facts." *Id.* None is alleged here. Instead, Plaintiff appears
26 to be alleging that Defendant (or his counsel) had a duty to the *court* and by virtue of
27 that duty, Defendant owed Plaintiff a duty. Compl., ¶ 87. However, to satisfy the
28

1 duty to disclose element, the duty must exist between the plaintiff and the defendant.
2 *Matyas*, 2023 U.S. Dist. LEXIS 195393 at *23 (collecting cases finding that the duty
3 to disclose must be between the plaintiff and the defendant, not others).

4 **B. Plaintiff’s Abuse of Process Claim Should Be Dismissed**

5 In addition to being barred by the litigation privilege and because it is untimely,
6 *see* Section V.B *supra*, the Complaint fails to plead facts sufficient to state a plausible
7 claim for abuse of process. “To succeed in an action for abuse of process, a litigant
8 must establish that the defendant (1) contemplated an ulterior motive in using the
9 process, and (2) committed a willful act in the use of the process not proper in the
10 regular conduct of the proceedings.” *Class Int’l, Inc. v. Toolman Prods., Inc.*, No.
11 8:25-cv-00010-JDE, 2025 U.S. Dist. LEXIS 87523, at *20-21 (C.D. Cal. May 7,
12 2025), *citing JSJ Ltd. P’ship v. Mehrban*, 205 Cal. App. 4th 1512, 1522, 141 Cal.
13 Rptr. 3d 338 (2012) (citation omitted). Under California law, “the mere filing or
14 maintenance of a lawsuit—even for an improper purpose—is not a proper basis for an
15 abuse of process action.” *SolMark Int’l, Inc. v. Galvez*, 2021 U.S. Dist. LEXIS
16 201280, 2021 WL 4813252, at *5 (C.D. Cal. Aug. 23, 2021) (*quoting JSJ Ltd. P’ship*,
17 205 Cal. App. 4th at 1523); *Microsoft Corp. v. A-Tech Corp.*, 855 F. Supp. 308, 312
18 (C.D. Cal. 1994) (“There is little doubt . . . that an abuse of process claim does not
19 exist simply as a result of filing the main action or lawsuit, even if the filing has an
20 improper purpose.”). The improperly motivated judicial process must be accompanied
21 by “some definite act or threat.” *IMP Int’l, Inc. v. Zibo Zhongshi Green Biotech Co.*,
22 2015 U.S. Dist. LEXIS 190451, 2015 WL 13357602, at *6 (C.D. Cal. Mar. 20, 2015)
23 (citation omitted).

24 The alleged abuse of process was Defendant’s *successful* jurisdictional defense,
25 which the New Jersey court found had merit even after considering Plaintiff’s alleged
26 newly discovery evidence to the contrary. Compl., ¶¶ 30-33; 94, 95. Because
27 participating in litigation is not an abuse of process, Plaintiff’s abuse of process claim
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1 fails as a matter of law. *See Auto. Prods., plc v. Tilton Eng'g*, CV 90-5500 KN (Ex),
2 1993 U.S. Dist. LEXIS 3752, at *12 (C.D. Cal. Jan. 21, 1993) (finding the asserting
3 frivolous claims and even filing false declarations is not an abuse of process).

4 **C. Plaintiff's Intentional Infliction of Emotional Distress Claim Should**
5 **be Dismissed**

6 In addition to being barred by the litigation privilege and because it is untimely,
7 *see* Section V.B *supra*, the Complaint fails to plead facts sufficient to state a plausible
8 claim for intentional infliction of emotional distress ("IIED"). To state a cause of
9 action for intentional infliction of emotional distress, there must be (1) extreme and
10 outrageous conduct by the defendant with the intention of causing, or reckless
11 disregard of the probability of causing, emotional distress; (2) the plaintiff's suffering
12 of severe or extreme emotional distress; and (3) actual and proximate causation.
13 *Cuellar v. Seiu-Uswu*, No. 2:22-cv-01359-SPG-MAA, 2022 U.S. Dist. LEXIS
14 246500, at *23 (C.D. Cal. Oct. 4, 2022).

15 An IIED claim requires conduct that is so outrageous, nobody in a civil society
16 should be expected to tolerate it. *Id.* Here, the alleged extreme and outrageous conduct
17 is Defendant's assertion of a successful jurisdictional defense in response to the litany
18 of "frivolous and vexatious" filings of Plaintiff and related Plaintiff Ms. Coley.
19 Compl., ¶ 103; RJN, Ex. G (January 13, 2022 Order). Defendant's exercise of his
20 constitutional right to defend himself in litigation is not extreme and outrageous
21 conduct. Regardless, even a misrepresentation in a court filing will not support a
22 claim for intentional infliction of emotional distress. *See Thornbrough v. W. Placer*
23 *Unified Sch. Dist.*, No. 2:09-cv-02613-GEB-GGH, 2010 U.S. Dist. LEXIS 53136, at
24 *24-25 (E.D. Cal. May 27, 2010), *quoting Cantu v. Resolution Trust Corp.*, 4 Cal.
25 App. 4th 857, 888 n.14 (1992) (The plaintiff could "state no cause of action for
26 intentional infliction of emotional distress, even if defendants submitted perjurious
27 and malicious declarations or pleadings.")
28

1 In addition, the Complaint fails to allege sufficient facts regarding the
2 emotional distress allegedly suffered. Plaintiff's conclusory allegations of emotional
3 harm, Compl., ¶ 106, fail to allege facts establishing "severe distress." "Severe
4 distress is 'emotional distress of such substantial quality or enduring quality that no
5 reasonable person in civilized society should be expected to endure it.'" *Kisty v.*
6 *Avalonbay Cmtys., Inc.*, No. 2:23-cv-00427-RGK-PLA, 2023 U.S. Dist. LEXIS
7 80410, at *5 (C.D. Cal. Mar. 10, 2023). While Plaintiff may disagree with court
8 orders, being a dissatisfied litigant is not severe distress. Plaintiff's claim also fails on
9 the causation element as the cause of the alleged harm is court orders, not an
10 affirmative act of Defendant. Compl., ¶103.

11 **D. Plaintiff's Negligent Infliction of Emotional Distress Claim Should be**
12 **Dismissed**

13 In addition to being barred by the litigation privilege and because it is untimely,
14 *see* Section V.B *supra*, the Complaint fails to plead facts sufficient to state a plausible
15 claim for negligent infliction of emotional distress ("NIED"). "The elements of a
16 cause of action for negligence are: duty; breach of duty; legal cause; and damages."
17 *Zoladz v. AGA Serv. Co.*, No. 2:24-cv-00584-JLS-SK, 2024 U.S. Dist. LEXIS 209648,
18 at *9 (C.D. Cal. Oct. 9, 2024). "[T]here is no independent tort of negligent infliction
19 of emotional distress," and the "duty to avoid negligently causing emotional distress
20 to another" arises only if there is a special relationship between the plaintiff and
21 defendant. *Id.*, at *9 (quoting *Potter v. Firestone Tire & Rubber Co.*, 6 Cal. 4th 965,
22 984-85 (1993)).

23 There is no applicable special relationship here. A duty of care may arise
24 through statute, contract, or a special relationship between the parties. *Radus Tek*
25 *Servs. v. IDC Techs. Inc.*, 767 F. Supp. 3d 972, 979 (N.D. Cal. 2025). Plaintiff alleges
26 that Defendant owed him a duty "[a]s [his] biological father", but that claim was
27 rejected "as a matter of law." Ex. B (July 16, 2010 Order); Ex. D (April 23, 2013
28

Order), pp. 1-2. In addition, like his IIED claim, Plaintiff fails to allege the required severe distress and causation. *Kisty*, 2023 U.S. Dist. LEXIS 80410, at *5 (“Both NIED and IIED require that the plaintiff’s emotional distress be severe.”)

E. Plaintiff’s Unjust Enrichment Should be Dismissed

“[I]n California, there is not a standalone cause of action for unjust enrichment, which is synonymous with restitution.” *Astiana v. Hain Celestial Grp., Inc.*, 783 F.3d 753, 762 (9th Cir. 2015) (internal quotes omitted) (citing *Durell v. Sharp Healthcare*, 183 Cal. App. 4th 1350 (2010); *Jogani v. Superior Court*, 165 Cal. App. 4th 901 (2008)); *HKM Enters., Inc. v. Parsons Gov’t Servs.*, No. 2:23-cv-10592-MEMF-PD, 2025 U.S. Dist. LEXIS 33808, at *35 (C.D. Cal. Feb. 25, 2025). As such, this claim should be dismissed.

Defendant acknowledges that in some circumstances—none of which apply here⁶—the Ninth Circuit has “construed the common law to allow an unjust enrichment cause of action through quasi-contract.” *ESG Cap. Partners, LP v. Stratos*, 828 F.3d 1023, 1038 (9th Cir. 2016); *see also Astiana*, 783 F.3d at 762 (“When a plaintiff alleges unjust enrichment, a court may ‘construe the cause of action as a quasi-contract claim seeking restitution.’”) (citation omitted).

Even if the Court construes Plaintiff’s unjust enrichment claim as a quasi-contract claim, in addition to being barred by the litigation privilege and because it is untimely, *see* Section V.B *supra*, the Complaint fails to plead facts sufficient to state a plausible claim for unjust enrichment. “To allege unjust enrichment as an independent

⁶ “[Q]uasi-contract claim typically involves a plaintiff seeking the return of a benefit that the defendant had unjustly gained through ‘mistake, fraud, coercion, or request.’” *Souter v. Edgewell Pers. Care Co.*, No. 20-CV-1486 TWR (BLM), 2022 U.S. Dist. LEXIS 28386, at *34 (S.D. Cal. Feb. 16, 2022) (quoting *Astiana v. Hain Celestial Grp., Inc.*, 783 F.3d 753, 762 (9th Cir. 2015)). “Absent fraud, Plaintiff has no claim for unjust enrichment.” (*Myers-Taylor v. Ornua Foods N. Am., Inc.*, No. 3:18-cv-01538-H-MDD, 2019 U.S. Dist. LEXIS 17678, at *15 (S.D. Cal. Feb. 4, 2019 (“[T]o succeed in an unjust enrichment claim, a plaintiff must show some fraud.”)).

1 cause of action, a plaintiff must show that the defendant received and unjustly retained
2 a benefit at the plaintiff's expense.” *ESG Cap. Partners*, 828 F.3d at 1038 (citation
3 omitted). “The fact that one person benefits another is not, by itself, sufficient to
4 require restitution. The person receiving the benefit is required to make restitution
5 only if the circumstances are such that, as between the two individuals, it is unjust for
6 the person to retain it.” *First Nationwide Sav. v. Perry*, 11 Cal. App. 4th 1657, 1663
7 (1992) (citation omitted). Here, the alleged benefit is the “retaining [of] funds
8 [Defendant] would likely have been obligated to pay in child and education support.”
9 Compl., ¶ 122. However, Plaintiff apparently received support from someone else
10 pursuant to a court order. RJN, Ex. D, p. 1 (April 23, 2013 Order); Ex. E (September
11 17, 2013 Order), ¶ 4. In addition, because the claim is based on the same allegations
12 as Plaintiff’s fraud claim, Compl., ¶¶ 120-121, it must be dismissed for the same
13 reasons the fraud claim should be dismissed. *Smith v. Intel Corp.*, 745 F. Supp. 3d
14 853, 865 (N.D. Cal. 2024) (restitution based on fraud fails when fraud claim fails); *see*
15 *also supra* footnote 6.

16 Plaintiff’s paternity claims have also been litigated—in Defendant’s favor, and
17 however Plaintiff attempts to reframe them here, they are subject to res judicata. RJN,
18 Ex. C (April 18, 2011 Order); Ex. D (April 23, 2013 Order); Ex. E (September 17,
19 2013 Order). *See Clark v. Bear Stearns & Co.*, 966 F.2d 1318, 1320 (9th Cir. 1992)
20 (Issue preclusion, also known as collateral estoppel, “bars the relitigation of issues
21 actually adjudicated in previous litigation.”)

22 **VII. CONCLUSION**

23 For the foregoing reasons, Defendant respectfully requests that the Court grant
24 this Motion and dismiss the complaint with prejudice, and award Defendant fees and
25 costs pursuant to CCP §425.16.

26 ///

27 ///

1 DATED: July 18, 2025

REED SMITH LLP

2 By: /s/ Carla M. Wirschafter

3 Carla M. Wirschafter

4 Allison L. Kahn

5 Attorneys for Defendant

6 SHAWN COREY CARTER

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A limited liability partnership formed in the State of Delaware

Certification of Compliance

The undersigned, counsel of record for Defendant Shawn Corey Carter, certifies that his motion is 25 pages in length, which complies with the page limit of Rule G.2.4 in the Court's Standing Order.

DATED: July 18, 2025

REED SMITH LLP

By: /s/ Carla M. Wirtschafter
Carla M. Wirtschafter

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